

CHAMBERS COPY

1 KAMALA D. HARRIS
2 Attorney General of California
3 KELVIN C. GONG
4 Supervising Deputy Attorney General
5 SUSAN J. KAWALA
6 Deputy Attorney General
7 State Bar No. 178612
8 455 Golden Gate Avenue, Suite 11000
9 San Francisco, CA 94102-7004
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Attorneys for the People of the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

MONTEREY DIVISION

IN RE:

**MONTEREY COUNTY AIDS PROJECT, INC., A
CALIFORNIA PUBLIC BENEFIT NONPROFIT
CORPORATION**

Case No. M105979

**~~PROPOSED~~ ORDER GRANTING
ATTORNEY GENERAL'S CY PRES
PETITION TO DESIGNATE NEW
CHARITABLE BENEFICIARY**

**Date: January 20, 2012
Time: 9:00 a.m.
Dept: 16
Judge: Thomas W. Wills**

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FILED

JAN 20 2012

CONNIE MAZZEI
CLERK OF THE SUPERIOR COURT
DEPUTY
CARMEN B. OROZCO

1 This matter came before the above-entitled Court on January 20, 2012 at 9:00 a.m. in
2 Department 16, the Honorable Judge Thomas W. Wills, presiding. Deputy Attorney General
3 Susan J. Kawala appeared on behalf of the California State Attorney General's Office and Teri
4 L.K. Shugart, Esq. appeared on behalf of the Monterey County AIDS Project, Inc., ("MCAP").

5 After considering the papers filed in connection with the hearing before the Court:

6 **IT IS HEREBY ORDERED THAT:**

7 1. The \$1.0 million in settlement funds, which are currently maintained in the Attorney
8 General's Fund, will be distributed to the Community Foundation for Monterey County within 30
9 days of the date of this order.

10 2. MCAP will dissolve and all of its remaining charitable assets shall be distributed to
11 the Community Foundation for Monterey County within thirty days of the dissolution of MCAP.

12 3. The above settlement funds and charitable assets shall be deemed the "principal" and
13 shall be placed in an endowed field of interest fund bearing Douglas Madsen's name. The
14 Community Foundation for Monterey County will be responsible for investing the principal of the
15 Douglas Madsen Fund. The Foundation will be allowed to be paid a fee for administering this
16 Fund of 1.25 % annually of the first \$1,000,000 of market value of the corpus held in the Fund,
17 1% of the next \$2,000,000, and 1/2% (.50%) for amounts over \$3,000,000. These fees may be
18 assessed quarterly.

19 4. The Douglas Madsen Fund will be restricted and grants shall be made only to
20 qualified nonprofit, public benefit corporations which will, as a condition of receiving such
21 grants, agree to acquire, sell or operate residential facilities, respite residential facilities, hospice
22 facilities or residential hospice care to or for the benefit of persons with HIV/AIDS, or to
23 subsidize housing costs for people with HIV/AIDS.

24 5. The Community Foundation for Monterey County shall not invade said principal after
25 the first two years. For each of the first two years, twenty-five thousand dollars of the principal
26 may be used to make grants. After the first two years, the Community Foundation for Monterey
27 County must petition the Court and obtain its approval prior to invading the principal. The
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1 Community Foundation for Monterey County must also provide notice to the Attorney General
2 for any such petition.

3 6. Additionally, the Community Foundation for Monterey County is ordered to provide
4 the Attorney General's Office with an annual statement of grants made from the Douglas Madsen
5 Fund, as well as participate in an accounting should the Attorney General request such an
6 accounting, for two years following the transfer of charitable assets.


7 7. In the event the Community Foundation for Monterey County deems it necessary to
8 change the charitable purpose, the Community Foundation for Monterey County must give the
9 Attorney General an additional thirty day notice prior to filing a motion with the Court.

10 **IT IS SO ORDERED.**

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13 Dated: 1/20/12


14 Hon. Thomas W. Wills
15 Monterey County Superior Court Judge
16 **THOMAS W. WILLS**

17 APPROVED AS TO FORM:

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20 SUSAN J. KAWALA
21 Deputy Attorney General
22 *Attorneys for the People of the State of California*
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